Supreme Court, U.S.
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No. 82-963

IN THE SUPREME COURT
OF THE UNITED STATES

October Term, 1982

COMMONWEALTH OF MASSACHUSETTS,
Petitioner,

V.

OSBORNE SHEPPARD,
Respondent.

ON WRIT OF CERTIORARI TO THE
SUPREME JUDICIAL COURT FOR THE
COMMONWEALTH OF MASSACHUSETTS

REPLY BRIEF

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REPLY BRIEF

The Commonwealth submits a reply brief solely to clarify for the court the application of Art. 14 of the Massachusetts Declaration of Rights and Mass. Gen. Laws c. 276, §2, referred to in Respondent's Brief in Opposition at 11.

The issue in the instant case is application of the federally created exclusionary rule. Neither Art. 14 nor G.L. c. 276, §2 mandates the exclusion

of illegally seized evidence. It was not until this court's decision in Mapp v. Ohio, 367 U.S. 643 (1961) and then solely upon that authority, that illegally seized evidence was held to be inadmissible in Massachusetts. Commonwealth v. Spofford, 343 Mass. 703, 706 (1962); Commonwealth v. Wilkins, 243 Mass. 356 (1923).

Therefore, whether the warrant at issue is insufficient under either Art. 14 or G.L. c. 276, §2 is irrelevant to question of whether the items seized should have been excluded.

Respectfull submitted,

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